08 CV 11332

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---X

ANTHONY SCIREMAMMANO,
MARIA SCIREMAMMANO, and
TONI SCIREMAMMANO

Plaintiff(s)

v.

BERNARD L. MADOFF, an individual

Defendant(s)

---X

CASE NO. CV-08- 11332
( )( )

COMPLAINT

RECEIVED
DEC 30 2008
U.S.D.C. S.D. N.Y.
CASHIERS

JURY TRIAL DEMANDED

Plaintiffs Anthony Sciremammano, Maria Sciremammano, and Toni Sciremammano, as and for their Complaint against defendants Bernard L. Madoff ("Madoff '), allege:

SUMMARY

1. The Plaintiffs bring this action concerning the allegations of ongoing fraudulent offerings of securities and investment advisory fraud by Madoff, a broker dealer and investment adviser registered with the Securities and Exchange Commission. From an indeterminate period through the present, Madoff has committed fraud through the investment adviser activities of a registered brokerage firm of which he was a principal and/or the sole owner (the "Firm"). On or about December 10, 2008, Madoff admitted to one or more employees of said Firm that for many years he has been conducting a Ponzi-scheme through the investment adviser activities of the Firm and

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that Firm has liabilities of approximately $50 billion. Madoff told these employees that he intends to distribute any remaining funds at the Firm to employees and certain investors in the investment advisor business, such as family and friends. Such a distribution will be unfair and inequitable to other investors and creditors of the Firm, of which plaintiffs constitute other investors.

2. Relief is sought herein to halt the fraud and prevent the Defendant from unfairly distributing the remaining assets in an unfair and inequitable manner to employees, friends and relatives, at the expense of other customers, and thereafter to obtain judgment to recover the funds described herein below.

3. To the extent necessary, in the event that the Securities and Exchange Commission ("SEC") or the Securities Investment Protection Corporation ("SIPC") has not already done so, plaintiff shall seek to halt the ongoing fraud, maintain the status quo and preserve any assets for plaintiffs, including temporary restraining orders and preliminary injunctions, and an order: (i) imposing asset freezes against the Defendants; (ii) maintaining communication and cooperating with the receiver appointed over The Firm; (iii) allowing expedited discovery and preventing the destruction of documents; and (iv) requiring the Defendant to provide verified accountings. In the event that the SEC or the SIPC has not already done so, Plaintiff shall also seek permanent injunctions, disgorgement of ill-gotten gains, plus prejudgment interest and civil monetary penalties against the Defendant.

VIOLATIONS

4. By virtue of the conduct alleged herein:

a. The Defendant directly or indirectly, singly or in concert, has engaged, and is engaging, in acts, practices, schemes and courses of business that constitute violations of Sections 5 of the Securities Act of 1933 ("Securites Act"), 15 U.S.C. § 77e, and Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 778j(b), 17 C.F.R. § 240.10b-5, and New York General Business Law § 352 et seq; defendant has also committed fraud and is in breach of the fiduciary duty owed to Plaintiffs.

NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

5. The Plaintiffs brings this action pursuant to allegations and violations of the Securities Act and the Exchange Act concerning the fraudulent acts of the Defendant, seeking to restrain and enjoin permanently the Defendant from engaging in the acts, practices and courses of business alleged herein, and thereafter to obtain judgment to recover the funds described herein below.

6. In addition to the injunctive and emergency relief recited above, the Plaintiffs seeks: (I) final judgments ordering Defendant to disgorge their ill-gotten gains with prejudgment interest thereon; and (ii) final judgments ordering the Defendant to pay damages to Plaintiff pursuant to violations of the Securities Act, the Exchange Act, and the other causes of action alleged herein.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to, Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21(e) and 27 of the Exchange Act [15 U.S.C. § 78u(e) and 78aal.

8. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391. The

Defendant, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, or of the mails, in connection with the transactions, acts, practices and courses of business alleged herein. A substantial part of the events comprising Defendant's fraudulent scheme that gives rise to the Plaintiffs' claims occurred in the Southern District of New York, including that the Firm is located and headquarter in this District and that Madoff and the Firm committed their fraudulent securities and adviser activities in this District.

PLAINTIFFS

9. Plaintiff Anthony Sciremammano, is and was at all times relevant hereto, an individual, and a resident of the State of New York, residing in Massapequa Park, New York 11762. Plaintiff maintained an account with defendant and the Firm commencing on or about 1995, and continuous to the present, under account No. 1-S0283-3, reporting an approximate value as of September, 2008 of $1,729,031.41. See the attached Exhibit A. This account was owned and maintained jointly with spouse and co-Plaintiff Maria Sciremammano; see paragraph 10 herein below.

10. Plaintiff Maria Sciremammano, is and was at all times relevant hereto, an individual, and a resident of the State of New York, residing in Massapequa Park, New York 11762. Plaintiff maintained an account with defendant and the Firm commencing on or about 1995, and continuous to the present, under account No. 1-S0283-3, reporting an approximate value as of September, 2008 of $1,729,031.41, and under account No. 1-S0397-3, reporting an approximate value as of September, 2008 of $269,205.39. See the attached Exhibit A. The first account was owned and maintained jointly with spouse and co-Plaintiff Anthony Sciremammano; the second

account was owned and maintained jointly with daughter and co-Plaintiff Toni Sciremammano; see paragraph 9 & 11 herein.

11. Plaintiff Toni Sciremammano, is and was at all times relevant hereto, an individual, and a resident of the State of New York, residing in Massapequa Park, New York 11762. Plaintiff maintained an account with defendant and the Firm commencing on or about 1999, and continuous to the present, under account No. 1-S0397-3, reporting an approximate value as of September, 2008 of $269,205.39. See the attached Exhibit A. This account was owned and maintained jointly with parent and co-Plaintiff Maria Sciremammano; see paragraph 10 herein above.

THE DEFENDANT

12. Madoff is a resident of New York City and is the sole owner of the Firm. The website formerly associated with the Firm indicates that Madoff founded the Firm in the early 1960s and that he is an attorney. Madoff is a former Chairman of the board of directors of the NASDAQ stock market. The Firm is both a broker-dealer and investment adviser registered with the Securities and Exchange Commission. Madoff oversees and controls the investment adviser services at the Firm as well as the overall finances of the Firm.

FACTS

13. From an indeterminate time to the present, Madoff and the Firm have been conducting a Ponzi-scheme through the investment adviser services of the Firm.

14. Madoff conducts certain investment advisory business for clients that is separate

from the Firm's proprietary trading and market making activities.

15. Madoff ran his investment adviser business from a separate floor in the New York offices of the Firm.

16. Madoff kept the financial statements for the Firm under lock and key, and was "cryptic" about the firm's investment advisory business when discussing the business with other employees of The Firm.

17. In or about the first week of December 2008, Madoff told a senior employee that there had been requests from clients for approximately $7 billion in redemptions, that he was struggling to obtain the liquidity necessary to meet those obligations, but that he thought that he would be able to do so. According to this senior employee, he had previously understood that the investment advisory business had assets under management on the order of between approximately $8- 15 billion.

18. On or about December 9, 2008, Madoff informed another senior employee that he wanted to pay 2008 bonuses to employees of the firm in December, which was earlier than employee bonuses are usually paid.

19. Bonuses traditionally have been paid at The Firm in February of each year for the pervious year's work.

20. On or about December 10,2008, the two senior employees referenced above visited Madoff at the offices of The Firm to discuss the situation further, particularly because Madoff had appeared to these two senior employees to have been under great stress in the prior weeks.

21. At that time, Madoff informed the senior employees that he had recently made

profits through business operations, and that now was a good time to distribute it. When the senior employee challenged his explanation, Madoff said that he did not want to talk to them at the office, and arranged a meeting at Madoff s apartment in Manhattan. At that meeting Madoff stated, in substance, that he "wasn't sure he would be able to hold it together" if they continued to discuss the issue at the office.

22. At Madoff s Manhattan apartment, Madoff informed the two senior employees, in substance, that his investment advisory business was a fraud. Madoff stated that he was "finished," that he had "absolutely nothing," that "it's all just one big lie," and that it was "basically, a giant Ponzi scheme." In substance, Madoff communicated to the senior employees that he had for years been paying returns to certain investors out of the principal received from other, different, investors. Madoff stated that the business was insolvent, and that it had been for years. Madoff also stated that he estimated the losses from this fraud to be approximately $50 billion. One of the senior employees has a personal account at The Firm in which several million had been invested under the management of Madoff.

23. At Madoff s Manhattan apartment, Madoff further informed the two senior employees referenced above that, in approximately one week, he planned to surrender to authorities, but before he did that, he had approximately $200-300 million left, and he planned to use that money to make payments to certain selected employees, family, and friends. Plaintiffs herein have duly demanded the return of all of their assets, but defendants have failed and/or refused to comply with Plaintiffs' request. See the attached Exhibit B.

FIRST CAUSE OF ACTION

24. Paragraphs 1 through 23 are realleged and incorporated by reference as if set forth fully herein.

25. Madoff and The Firm at all relevant time were investment advisers within the meaning of Section 201(11) of the Advisers Act [15 U.S.C. § 80b-2(1 l)].

26. Madoff and The Firm directly or indirectly, singly or in concert, knowingly or recklessly, through the use of the mails or any means or instrumentality of interstate commerce, while acting as investment advisers within the meaning of Section 202(11) of the Advisers Act [15 U.S.C. § 80b-2(1 I)]: (a) have employed, are employing, or are about to employ devices, schemes, and artifices to defraud any client or prospective client; or (b) have engaged, are engaging, or are about to engage in acts, practices, or courses of business which operates as a fraud or deceit upon any client or prospective client.

27. As described in the paragraphs above, Madoff and The Firm violated Sections 206(1) and 206(2) of the Advisers Act[15 U.S.C. § 80b-6(1), (2)] and unless enjoined will continue to violate Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. § 80b-6(1), (2)].

28. As a result of the foregoing, Plaintiffs have suffered considerable financial loss and damages, and hereby seek to recover the sums of $1,729,031.41 and $269,205.39, plus interest from December 15, 2008, and punitive damages in an amount deemed appropriate by this Court, together with the costs and disburdenments of bringing this action and such other and further relief as this Court deems just.

SECOND CAUSE OF ACTION

29. Paragraphs 1 through 28 are realleged and incorporated by reference as if set forth fully herein.

30. From at least 2005 through the present, the Defendants, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce or by the use of the mails, directly and indirectly, have employed and are employing devices, schemes and artifices to defraud.

31. The Defendants knew or were reckless in not knowing of the activities described above.

32. As described herein, the Defendant Madoff directly or indirectly, singly or in concert, has engaged, and is engaging, in acts, practices, schemes and courses of business that constitute violations of Sections 5 of the Securities Act of 1933 ("Securites Act") (15 U.S.C. § 77e, and Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 778j(b), 17 C.F.R. § 240.10b-5, and New York General Business Law § 352 et seq

33. As a result of the foregoing, Plaintiffs have suffered considerable financial loss and damages, and hereby seek to recover the sums of $1,729,031.41 and $269,205.39, plus interest from December 15, 2008, and punitive damages in an amount deemed appropriate by this Court, together with the costs and disburdenments of bringing this action and such other and further relief as this Court deems just.

THIRD CAUSE OF ACTION

34. Paragraphs 1through 33 are realleged and incorporated by reference as if set forth

fully herein.

35. From at least 2005, the Defendants, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce or by the use of the mails, directly and indirectly, have obtained and are obtaining money and property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and have engaged and are engaging in transactions, practices or courses of business which have operated and will operate as a fraud and deceit upon investors.

36. As a principle or primary owner of the Firm that both solicited and accepted the investments of the Plaintiffs, the defendant owed a fiduciary duty to such plaintiffs to act in good faith and in full compliance with Federal and New York law. By the actions described herein constituting fraud and various other malfeasance, Defendant thereby breached such duty.

37. As a result of the foregoing, Plaintiffs have suffered considerable financial loss and damages, and hereby seek to recover the sums of $1,729,031.41 and $269,205.39, plus interest from December 15, 2008, and punitive damages in an amount deemed appropriate by this Court, together with the costs and disburdenments of bringing this action and such other and further relief as this Court deems just.

FOURTH CAUSE OF ACTION

38. Paragraphs 1through 37 are realleged and incorporated by reference as if set forth fully herein.

39. From at least 2005 through the present, the Defendant, in connection with the

purchase and sale of securities, directly and indirectly, by the use of the means and instrumentalities of interstate commerce or of the mails, have employed and are employing devices, schemes and artifices to defraud; have made and are making untrue statements of material fact and have and are omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and have engaged and are engaging in acts, practices and courses of business which operated as a fraud and deceit upon Plaintiffs.

40. Defendant knew or was reckless in not knowing of the activities described above. As defendant had been transacting business in a manner which appeared legitimate and successful in conjunction with the Firm for several years, Plaintiffs justifiably relied upon the statements and assertions that such business was legitimate. In accordance with such reliance, Plaintiffs invested considerable sums of money with Madoff and the firm, with the expectation that such money was being controlled by a legal enterprise.

41. By reason of the activities described herein, Plaintiffs have suffered considerable financial loss and damages, and hereby seek to recover the sums of $1,729,031.41 and $269,205.39, plus interest from December 15, 2008, together with the costs and disburdenments of bringing this action and such other and further relief as this Court deems just, and punitive damages in an amount deemed appropriate by this Court.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully requests that the Court grant the following relief:

Enter judgment in favor of the Plaintiffs finding that the Defendants each violated the securities laws and rules promulgated thereunder as alleged herein; and

An Order temporarily and preliminarily, and Final Judgments permanently, restraining and permanently enjoining the Defendant, their agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from committing future violations of any Federal or New York law, and that all parties hereafter act in cooperation with the receiver appointed by the SEC and/or the SIPC; and

Award to plaintiffs a judgment against defendant Madoff for damages in an amount $1,729,031.41 and $269,205.39, plus interest from December 15, 2008, together with the costs and disburdenments of bringing this action and such other and further relief as this Court deems just, and punitive damages in an amount deemed appropriate by this Court.

Dated: New York, New York
December 29, 2008

J. Garth Foley, Esq. (#JF9950)
Foley & Assoc., P.C.
Attorneys for the Plaintiffs
110 Wall Street, 11TH FL
New York, NY 10005
(212) 709-8025

Exhibit A

PORTFOLIO MANAGEMENT REPORT AS OF 9/30/08

THIS REPORT IS PROVIDED TO ASSIST YOU IN EVALUATING THE PERFORMANCE OF YOUR ACCOUNT AND SHOULD NOT BE USED FOR INCOME TAX PURPOSES.

ANTHONY SCIREMAMMANO 1-S0283-3
AND MARIA SCIREMAMMANO J/T

200 HARBOR LANE
MASSAPEQUA PARK NY 11762

STARTING EQUITY FOR CURRENT YEAR	1,674,976.57CR	
CAPITAL ADDITIONS		
CAPITAL WITHDRAWALS	75,000.00-	
REALIZED P/L FOR CURRENT YEAR	127,371.74CR	
UNREALIZED P/L ON OPEN SECURITY POSITIONS	1,683.00CR	
CURRENT CASH BALANCE	.41CR	
NET MARKET VALUE OF OPEN SECURITIES POSITIONS	1,729,031.00	NET LONG
TOTAL EQUITY	1,729,031.41CR	

ANNUALIZED RETURN FOR CURRENT YEAR 10.63 %

PORTFOLIO MANAGEMENT REPORT AS OF 9/30/08

THIS REPORT IS PROVIDED TO ASSIST YOU IN EVALUATING THE PERFORMANCE OF YOUR ACCOUNT AND SHOULD NOT BE USED FOR INCOME TAX PURPOSES.

TONI SCIREMAMMANO 1-SC397-3
MARIA SCIREMAMMANO J/T WROS

200 HARBOR LANE
MASSAPEQUA PARK NY 11762

STARTING EQUITY FOR CURRENT YEAR	250,491.05CR	
CAPITAL ADDITIONS		
CAPITAL WITHDRAWALS	803.00-	
REALIZED P/L FOR CURRENT YEAR	19,294.59CR	
UNREALIZED P/L ON OPEN SECURITY POSITIONS	222.75CR	
CURRENT CASH BALANCE	.89CR	
NET MARKET VALUE OF OPEN SECURITIES POSITIONS	269,204.50	NET LONG
TOTAL EQUITY	269,205.39CR	

ANNUALIZED RETURN FOR CURRENT YEAR 10.40 %

Exhibit B

December 12,2008

Bernard L. Madoff
Investment Security
885 third avenue
New York, NY 10022-4834

Re: Account Number# 1-S0283-3

Attention: Jodi Crupi

Dear Jodi:

Please forward a check in the amount of $1,729,031.41as soon as possible to

To: Anthony and Maria Sciremammano
200 Harbor Lane
Massapequa Park, NY 11762

December 12,2008

Bernard L. Madoff
Investment Security
885 third avenue
New York, NY 10022-4834

Re: Account Number# 1-S0397-3

Attention: Jodi Crupi

Dear Jodi:

Please forward a check in the amount of $269,205.39 as soon as possible to

To: Toni and Maria Sciremammano
200 Harbor Lane
Massapequa Park, NY 11762

Toni Sciremammano

Maria Sciremammano

NEW YORK NY 100
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23 DEC 2008 PM 6

HAPPY HOLIDAYS

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Anthony Maria Toni Scaramanno
200 Harbor Lane
Massapequa Park NY 11762

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bernard L. Madoff
Investment Security
885 Third Avenue
New York NY 10022-4834
Attention: Jodi Crupi

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (*Printed Name*) J. LARSEN

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number (*Transfer from service label*) 7007 2560 0001 1082 0249

PS Form 3811, February 2004 Domestic Return Receipt -02-M-1540

MASSAPEQUA PARK
MASSAPEQUA PARK, New York
117623803
3548330762-0097
12/17/2008 (800)275-8777 04:59:55 PM

Sales Receipt

Product Description	Sale Qty	Unit Price	Final Price
Utility Mailer 10.5x16-RP	1	$0.99	$0.99
NEW YORK NY 10022 Zone-1 First-Class Large Env 2.30 oz.			$1.17
Return Rcpt (Green Card)			$2.20
Certified			$2.70
Label #:	70072560000110820249		

Issue PVI: $6.07

Total: $7.06

Paid by:
MasterCard $7.06
Account #: XXXXXXXXXXXX8231

Approval #: 39139B
Transaction #: 611
23903190726

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Return Receipt Fee (Endorsement Required)	$2.20	Postmark Here
Restricted Delivery Fee (Endorsement Required)	$0.00	
Total Postage & Fees	$ $6.07	12/17/2008

7007 2560 0001 1082 0249

Sent To: Bernard L. Madoff Investment Secur
Street, Apt. No.; or PO Box No.: 885 Third Avenue
City, State, ZIP+4: New York NY 10022-4834

PS Form 3800, August 2006 See Reverse for Instructions

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

08 CV 11332

ANTHONY SCIREMAMMANO ET AL., Plaintiff,	Case No. __________
-v-	**Rule 7.1 Statement**
BERNARD L. MADOFF, Defendant.	

RECEIVED DEC 30 2008 U.S.D.C. S.D.N.Y. CASHIERS

Pursuant to Federal Rule of Civil Procedure 7.1 [formerly Local General Rule 1.9] and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for ALL PLAINTIFFS; SCIREMAMMANO (a private non-governmental party) certifies that the following are corporate parents, affiliates and/or subsidiaries of said party, which are publicly held.

NONE; NOT APPLICABLE

Date: 12/29/08

Signature of Attorney

Attorney Bar Code: JF-9950